



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

February 6, 2009

REGISTERED MAIL
RB 670 439 798 US

RPDC, Inc.
Attn: Arthur Richey
1323 East 71st Street, Suite 120
Tulsa, OK 74136

RE: Requested Second Amendment to Administrative Order #5184, Wetland Fill for Construction of a Home Depot, Access Roads, Parking, Bank, and Restaurant, Port Orchard, Kitsap County, Washington

Dear Mr. Richey:

Enclosed is a second amendment to the Water Quality Certification issued on October 22, 2007, for the above project. The first amendment was issued on November 5, 2007.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Erik Stockdale, Unit Supervisor
Northwest Regional Office
Shorelands and Environmental Assistance Program

ES:rrp:cja

cc: Amy Klein, U.S. Army Corps of Engineers
Jason Kunz, Washington Department of Fish and Wildlife
Jeff Walker, URS Corporation
Allison O'Sullivan, Suquamish Tribe
Jennifer Aylor, Wildlands of Washington, Inc.

e-cc: Loree' Randall, Ecology
Richard Robohm, Ecology
ecyrefedpermits@ecy.wa.gov



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

**IN THE MATTER OF GRANTING
A WATER QUALITY
CERTIFICATION TO
RPDC, Inc.**

) **ORDER #5184 Second Amendment**
) **U.S. Army Corps of Engineers #200500502**
)
) Wetland fill for Construction of a Home
) Depot, Access Roads, Parking, Bank, and
) Restaurant, located in Section 1, T. 23 N., R.
) R. 1 E., Port Orchard, Kitsap County,
) Washington.

TO: RPDC, Inc.
Attn: Arthur Richey
1323 East 71st Street, Suite 120
Tulsa, OK 74136

As requested on January 8, 2009, the Department of Ecology (Ecology) is amending the above-referenced Administrative Order to reflect the revised project and mitigation proposal. The first amendment to the Order was issued on November 5, 2007.

This amendment is issued under the provisions of Chapter 90.48 RCW and Chapter 173-201A WAC.

Administrative Order #5184 is hereby amended as follows:

1. Project description that reads:

The project proposes to place fill in 2.47 acres of wetlands for construction of a Home Depot, access roads, parking, bank, and restaurant. These impacts will be compensated for by:

- Enhancing 0.40 acre of onsite wetlands.
- Enhancing about 1 acre of onsite wetland buffer.
- Rehabilitating 7.5 acres of offsite wetlands adjacent to Blackjack Creek in Port Orchard.
- Re-meandering about 600 lineal feet of Blackjack Creek and restoring the natural relationship of the creek to its floodplain in this reach.

Is replaced with:

The project proposes to place fill in 1.64 acres of wetlands for construction of a Home Depot, access roads, parking, bank, and restaurant. The project also will cause 0.05 acre of temporary wetland impacts. These impacts will be compensated for by:

- Creating and re-establishing 1.82 acres of wetlands on and next to the project site.
- Enhancing 2.25 acres of wetlands on and next to the project site.
- Enhancing 1.52 acres of wetland buffer.

2. Condition B1. that reads:

B1. The project proposes to fill 2.35 acres of palustrine forested, scrub-shrub, and emergent Category III wetlands and 0.12 acre of Category IV palustrine emergent wetlands. Offsite compensatory mitigation for these 2.47 acres of fill shall be accomplished by: 1) rehabilitating 7.50 acres of degraded palustrine emergent wetlands; and 2) re-meandering about 600 lineal feet of Blackjack Creek and restoring the natural relationship of the creek to its floodplain in this reach. Indirect impacts to the remaining wetlands on the development site shall be mitigated by: 1) enhancing 0.40 acre of onsite wetlands; and 2) enhancing about 1 acre of onsite wetland buffer. These measures are described in the following documents, except as modified by this Order, and including any approved revisions:

- a. Home Depot Offsite Mitigation Report, with accompanying plan sheets (Mitigation Plan) by Wildlands of Washington, Inc., dated April 20, 2007.
- b. Addendum Report, Port Orchard Home Depot, by URS, dated August 24, 2007.
- c. Impact Assessment and Mitigation Sequencing, Port Orchard Home Depot, by URS, dated April 20, 2007.

Is replaced with:

B1. The project proposes to fill 1.58 acres of palustrine scrub-shrub and emergent Category III wetlands and 0.06 acre of Category IV palustrine emergent wetlands. Temporary impacts will affect 0.05 acre of palustrine emergent and scrub-shrub Category III wetlands. Compensatory mitigation for these 1.64 acres of fill, 0.05 acre of temporary impacts, and 0.13 acre of permanent impacts shall be accomplished on and adjacent to the development site by: 1) creating or reestablishing 1.82 acres of scrub-shrub and forested wetlands; 2) enhancing 2.25 acres of emergent and scrub-shrub wetlands; and 3) enhancing 1.52 acres of wetland buffers. These mitigation measures are described in the following document, except as modified by this Order, and including any approved revisions:

- Final Mitigation Plan, Port Orchard Home Depot, Kitsap County, Washington, by URS, dated January 6, 2009.

3. Condition B.2.m. is added to the Order:

- m. Herbicide use. Any application of herbicide shall be done by a licensed applicator with an Aquatic Noxious Weed Control General Permit from Ecology.

No other conditions or requirements of the above-mentioned Order are affected by this Amendment. The Department of Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amendment may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amendment.

Appeal Process

You have a right to appeal this Amendment. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

OR

2. To serve your appeal on the Department of Ecology

Mail appeal to:

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Department of Ecology
Northwest Regional Office
Attn: Rebekah Padgett
3190 160th Avenue SE
Bellevue, WA 98008

For additional information visit the Environmental Hearings Office Website:

<http://www.cho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:

<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Amendment. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated February 6, 2009 at Bellevue, Washington.



Erik Stockdale, Unit Supervisor
Northwest Regional Office
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington